

Jason M. Drangel (JD 7204)
jdrangel@ipcounselors.com
Ashly E. Sands (AS 7715)
asands@ipcounselors.com
Danielle S. Futterman (DY 4228)
dfutterman@ipcounselors.com
EPSTEIN DRANGEL LLP
60 East 42nd Street, Suite 2520
New York, NY 10165
Telephone: (212) 292-5390
Facsimile: (212) 292-5391
Attorneys for Plaintiff
Kelly Toys Holdings, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KELLY TOYS HOLDINGS, LLC,

Plaintiff

v.

ALIALIALILL STORE, BABY -SHOPPING
STORE, BAZINGA STORE, BBOTTRUOYS TOY
STORE, BOBONU STORE, CHENWANJU
STORE, CHILDREN GROWING TREE STORE,
CHINESE PLUSH TOY STORE, DONGGUAN
SHENGHARDWARE PLASTIC CO., LTD.,
DONGGUAN WOODFIELD BABY PRODUCTS
COMPANY LIMITED, DONGGUAN XINGKE
GIFT CO., LTD., DROPSHIPPING-TOYS STORE,
FAIRYLANDS TOY STORE, FCOT STORE,
FOURTRY STORE, FRANCIS 001 STORE, FUN
GAME FUN STORE, GUANGDONG SANSAN
SUPPLY CHAIN CO., LTD., GUANGZHOU
LITTLE TALENT TOYS CO., LTD.,
GUANGZHOU YIMAI TRADING CO., LTD.,
HANGZHOU AGREAT IMPORT & EXPORT CO.,
LTD., HEBEI KUNI ANIMATION INDUSTRY
CO., LTD., HENAN YINGHUOZHIGUANG
CULTURE MEDIA CO., LTD., MIKECRACK
STORE, MONSTER JELLIE CULTURE CO.,
LTD., MOVING DREAMING STORE, NANJING
RUIFUTONG ARTS AND TOYS
MANUFACTURING CO., LTD., QWJA STORE,
SHANGHAI QIANJIU TRADING CO., LTD.,
SHENZHEN TONGFEI INTERNATIONAL TRADE
CO., LTD., SHENZHEN HECHUN
TECHNOLOGY CO., LTD., SHENZHEN

Civil Case No.:

~~PROPOSED~~

1) TEMPORARY
RESTRAINING ORDER; 2)
ORDER RESTRAINING
MERCHANT STOREFRONTS
AND DEFENDANTS' ASSETS
WITH THE FINANCIAL
INSTITUTIONS; 3) ORDER TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE; 4)
ORDER AUTHORIZING
BIFURCATED AND
ALTERNATIVE SERVICE; AND
5) ORDER AUTHORIZING
EXPEDITED DISCOVERY

FILED UNDER SEAL

QINGHONG TOYS CO., LTD., SHOP5477120
STORE, SHOP910893006 STORE, SI TING
STORE, SZ GTEAK TECHNOLOGY CO.,
LIMITED, TC XRC STORE STORE, TIKTOK IP
STORE, VL STORE, XINXIANG PURUIGE
IMPORT AND EXPORT TRADING CO., LTD.,
YAMONG STORE, YANGZHOU AIXINI
INTERNATIONAL TRADE IMPORT AND
EXPORT CO., LTD., YANGZHOU AORUNJU
GIFTS CO., LTD., YANGZHOU BABYJOY ARTS
& CRAFTS CO., LTD., YANGZHOU
CUTESHOOT PLUSHIES CO., LTD.,
YANGZHOU DULALA CRAFTS LTD.,
YANGZHOU KINGSTONE TOYS CO., LTD.,
YANGZHOU MARISA TOY GIFTS CO., LTD.,
YANGZHOU SCS HOMETEXTILE CO., LTD.,
YANGZHOU WEIHU HANDICRAFT CO., LTD.,
YANGZHOU WOSEN TOYS CO., LTD., YIWU
CHUANYU IMPORT AND EXPORT FIRM, YIWU
DUOTONG E-COMMERCE CO., LTD., YIWU
FUGUAN HOUSEHOLD SUPPLIES CO., LTD.,
YIWU HAIPING BAG FACTORY, YIWU
QUANFA IMPORT & EXPORT COMPANY
LIMITED, YIWU VICTORY IMPORT & EXPORT
CO., LTD., YIWU XINTU IMPORT AND EXPORT
CO., LTD., YIWU YINWEI HOUSEHOLD
PRODUCTS CO., LTD., YIWU ZHENGZHI QIN
TRADING FIRM and ZHANJIANG DYNAMIC
POINT NETWORK TECHNOLOGY CO., LTD.,

Defendants

GLOSSARY

Term	Definition
Plaintiff or Kelly Toys	Kelly Toys Holdings, LLC
Defendants	alialialiLL Store, baby -shopping Store, Bazinga Store, BBOTTRUOYS Toy Store, boboniu Store, chenwanju Store, Children Growing Tree Store, Chinese Plush Toy Store, Dongguan Shengen Hardware Plastic Co., Ltd., Dongguan Woodfield Baby Products Company Limited, Dongguan Xingke Gift Co., Ltd., Dropshipping-Toys Store, Fairylands Toy Store, FCOT Store, Fourtry Store, Francis 001 Store, Fun Game Fun Store, Guangdong Sansan Supply Chain Co., Ltd., Guangzhou Little Talent Toys Co., Ltd., Guangzhou Yimai Trading Co., Ltd., Hangzhou Agreat Import & Export Co., Ltd., Hebei Kuni Animation Industry Co., Ltd., Henan Yinghuozhiguang Culture Media Co., Ltd., Mikecrack Store, Monster Jellie Culture Co., Ltd., Moving Dreaming Store, Nanjing Ruifutong Arts And Toys Manufacturing Co., Ltd., QWJA Store, Shanghai Qianjiu Trading Co., Ltd., Shenzen Tongfei International Trade Co., Ltd., Shenzhen Hechun Technology Co., Ltd., Shenzhen Qinghong Toys Co., Ltd., Shop5477120 Store, Shop910893006 Store, SI TING Store, SZ Gteak Technology Co., Limited, TC XRC Store Store, TIKTOK IP Store, VL Store, Xinxiang Puruige Import And Export Trading Co., Ltd., YaMong Store, Yangzhou Aixini International Trade Import And Export Co., Ltd., Yangzhou Aorunju Gifts Co., Ltd., Yangzhou Babyjoy Arts & Crafts Co., Ltd., Yangzhou Cuteshoot Plushies Co., Ltd., Yangzhou Dulala Crafts Ltd., Yangzhou Kingstone Toys Co., Ltd., Yangzhou Marisa Toy Gifts Co., Ltd., Yangzhou SCS Hometextile Co., Ltd., Yangzhou Weihu Handicraft Co., Ltd., Yangzhou Wosen Toys Co., Ltd., Yiwu Chuanyu Import And Export Firm, Yiwu Duotong E-Commerce Co., Ltd., Yiwu Fuguan Household Supplies Co., Ltd., Yiwu Haiping Bag Factory, Yiwu Quanfa Import & Export Company Limited, Yiwu Victory Import & Export Co., Ltd., Yiwu Xintu Import And Export Co., Ltd., Yiwu Yinwei Household Products Co., Ltd., Yiwu Zhengzhi Qin Trading Firm and Zhanjiang Dynamic Point Network Technology Co., Ltd.
Alibaba	Alibaba.com, an online marketplace platform that allows manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, offer for sale, sell, distribute and ship their wholesale and retail products originating from China directly to consumers

	across the world and specifically to consumers residing in the U.S., including New York
AliExpress	Aliexpress.com, an online marketplace platform that allows manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, offer for sale, sell, distribute and ship their wholesale and retail products originating from China directly to consumers across the world and specifically to consumers residing in the U.S., including New York
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff
New York Address	244 Madison Ave, Suite 411, New York, NY 10016
Complaint	Plaintiff's Complaint
Application	Plaintiff's <i>ex parte</i> application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service; and 5) an order authorizing expedited discovery
Kelly Dec.	Declaration of Jonathan Kelly in Support of Plaintiff's Application
Futterman Dec.	Declaration of Danielle S. Futterman in Support of Plaintiff's Application
Squishmallows Applications	U.S. Trademark Serial Application No.: 88/471,796 for "SQUISHMALLOWS HUGMEES" for goods in Class 28 and 90/676,140 for "ORIGINAL SQUISHMALLOWS," for goods in Class 28
Squishmallows Registrations	U.S. Trademark Registration Nos.: 5,454,574 for "SQUISHMALLOW" for goods in Class 28; 6,137,521 for "FLIP A MALLOWS" for goods in Class 28; 5,962,289 for "MYSTERY SQUAD" for goods in Class 28; and 2,029,047 for "KELLYTOY" for goods in Class 28
Squishmallows Marks	The Squishmallows Registrations and Squishmallows Applications
Squishmallows Works	The works covered by the U.S. copyright registrations listed in Exhibit C to the Complaint
Squishmallows Products	A line of collectable plush toys and pillows made with a super soft, marshmallow-like texture that come in a variety of sizes from 3.5 inch clip-ons to extra large 24 inch plush toys, and include styles such as Hug Mees, Stackables, Mystery Squad and Flip-A-Mallows
Counterfeit Products	Products bearing or used in connection with the Squishmallows Marks and/or Squishmallows Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Squishmallows Marks and/or Squishmallows Works, and/or bearing or used in connection with marks and/or artwork that are

	confusingly or substantially similar to the Squishmallows Marks and/or Squishmallows Works and/or products that are identical or confusingly or substantially similar to the Squishmallows Products
Infringing Listings	Defendants' listings for Counterfeit Products
User Accounts	Any and all websites and any and all accounts with online marketplace platforms such as Alibaba and/or AliExpress, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Merchant Storefronts	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Defendants' Assets	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)
Defendants' Financial Accounts	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said accounts are located in the U.S. or abroad)
Financial Institutions	Any banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer"), the Alibaba Group d/b/a Alibaba.com payment services (e.g., Alipay.com Co., Ltd., Ant Financial Services Group), PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendants

Third Party Service Providers	Online marketplace platforms, including, without limitation, those owned and operated, directly or indirectly by Alibaba and/or AliExpress, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise
--------------------------------------	---

On this day, the Court considered Plaintiff's *ex parte* application for the following: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts and Defendants' Assets with the Financial Institutions; 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service; and 5) an order authorizing expedited discovery against Defendants, Third Party Service Providers and Financial Institutions in light of Defendants' intentional and willful offerings for sale and/or sales of Counterfeit Products.¹ A complete list of Defendants is attached hereto as **Schedule A**, which also includes links to Defendants' Merchant Storefronts and Infringing Listings. Having reviewed the Application, Declarations of Jonathan Kelly and Danielle S. Futterman, along with exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

FACTUAL FINDINGS & CONCLUSIONS OF LAW

1. Plaintiff is one of the world's most influential, leading manufacturers and distributors of high-quality plush toys and gifts, and is known for its best-selling brands, including Pillow Chums, Kellybaby and Kellypet.
2. Plaintiff sells its Kelly Toys Products in major retailers, department stores and online marketplaces, including, but not limited to: Walmart, Justice, Target and Amazon.
3. One of the most popular Kelly Toys Brands is Squishmallows, a line of loveable buddies made with a super soft, marshmallow-like texture that come in a variety of sizes from 3.5-inch clip-ons to extra-large 24-inch plush toys. The Squishmallows Products have expanded to other styles including Hug Mees, Stackables, Mystery Squad and Flip-A-Mallows.
4. Since their debut in 2017, over 73 million Squishmallows Products have been sold

¹ Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Glossary.

worldwide, and sales of Squishmallows have tripled in the past six months.

5. In 2020, the Squishmallows Products were awarded “Best Toy of the Year” by Learning Express.

6. The Squishmallows Products are sold by major U.S. retailers and e-commerce sites, such as Amazon, Target and Walmart.

7. The Squishmallows Products typically retail for between \$7.99-44.99.

8. While Kelly Toys has gained significant common law trademark and other rights in its Squishmallows Products, through its and/or its predecessor’s use, advertising and promotion, Kelly Toys has also protected its valuable rights by filing for and/or obtaining federal trademark registrations.

9. For example, Kelly Toys is the owner of the Squishmallows Registrations (i.e., U.S. Trademark Registration Nos. 6,137,521 for “FLIP A MALLOWS” for goods in Class 28; 5,454,574 for “SQUISHMALLOW” for goods in Class 28; 5,962,289 for “MYSTERY SQUAD” for goods in Class 28; and 2,029,047 for “KELLYTOY” for goods in Class 28). Kelly Toys also applied for the registrations of “SQUISHMALLOWS HUGMEES” and “ORIGINAL SQUISHMALLOWS”, which are covered by the Squishmallows Applications (i.e., U.S. Trademark Serial Application Nos. 88/471,796 for goods in Class 28 and 90/676,140 for goods in Class 28).

10. The Squishmallows Marks are currently in use in commerce in connection with the Squishmallows Products.

11. In addition, Kelly Toys is also the owner of registered copyrights in and related to the Squishmallows Products.

12. For example, Kelly Toys owns the Squishmallows Works, and the U.S. copyright registrations covering the same, which are listed in Exhibit C to the Complaint.

13. Defendants are manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale or Counterfeit Product through Defendants’

User Accounts and Merchant Storefronts with Alibaba and AliExpress (*see* **Schedule A** for links to Defendants' Merchant Storefronts and Infringing Listings).

14. Defendants are not, nor have they ever been, authorized distributors or licensees of the Squishmallows Products. Neither Plaintiff, nor any of Plaintiff's authorized agents, have consented to Defendants' use of the Squishmallows Works and/or Squishmallows Marks, nor has Plaintiff consented to Defendants' use of marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute a counterfeiting or infringement of the Squishmallows Works and/or Squishmallows Marks.

15. Plaintiff is likely to prevail on its Lanham Act, copyright and related common law claims at trial.

16. As a result of Defendants' infringements, Plaintiff, as well as consumers, are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted:

- a. Defendants have offered for sale and sold substandard Counterfeit Products that infringe the Squishmallows Works and/or Squishmallows Marks;
- b. Plaintiff has well-founded fears that more Counterfeit Products will appear in the marketplace; that consumers may be misled, confused and disappointed by the quality of these Counterfeit Products, resulting in injury to Plaintiff's reputation and goodwill; and that Plaintiff may suffer loss of sales for its Squishmallows Products; and
- c. Plaintiff has well-founded fears that if it proceeds on notice to Defendants on this Application, Defendants will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Counterfeit Products or other goods that infringe the Squishmallows Works and/or Squishmallows Marks, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their

possession or under their control, (ii) inform their suppliers and others of Plaintiff's claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Counterfeit Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their possession or under their control, (iii) secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from its sales of Counterfeit Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks and records User Accounts and Merchant Storefront under new or different names and continue to offer for sale and sell Counterfeit Products with little to no consequence;

17. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its business, the goodwill and reputation built up in and associated with the Squishmallows Works and/or Squishmallows Marks and to its reputations if a temporary restraining order is not issued.

18. Public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests in and to its Squishmallows Works and/or Squishmallows Marks, and to protect the public from being deceived and defrauded by Defendants' passing off of their substandard Counterfeit Products as Squishmallows Products.

19. Plaintiff has not publicized its request for a temporary restraining order in any way.

20. Service on Defendants via electronic means is reasonably calculated to result in proper notice to Defendants.

21. If Defendants are given notice of the Application, they are likely to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing the Squishmallows Works and/or Squishmallows Marks. Therefore,

good cause exists for granting Plaintiff's request for an asset restraining order. It typically takes the Financial Institutions a minimum of five (5) days after service of the Order to locate, attach and freeze Defendants' Assets and/or Defendants' Financial Accounts and it is anticipated that it will take the Third Party Service Providers a minimum of five (5) days to freeze Defendants' Merchant Storefronts. As such, the Court allows enough time for Plaintiff to serve the Financial Institutions and Third Party Service Providers with this Order, and for the Financial Institutions and Third Party Service Providers to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) through I(C)(2) of this Order, respectively, before requiring service on Defendants.

22. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents relating to Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products. Therefore Plaintiff has good cause to be granted expedited discovery.

ORDER

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows:

I. Temporary Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Defendants are hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products, or any other products bearing the Squishmallows Works and/or Squishmallows Marks and/or marks and/or artwork that are confusingly and/or substantially similar to,

- identical to and constitute a counterfeiting or infringement of the Squishmallows Works and/or Squishmallows Marks;
- 2) directly or indirectly infringing in any manner Plaintiff's Squishmallows and Squishmallows Works;
 - 3) using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Squishmallows Marks and Squishmallows Works, to identify any goods or service not authorized by Plaintiff;
 - 4) using Plaintiff's Squishmallows Marks and/or Squishmallows Works and/or any other marks that are confusingly similar to the Squishmallows Marks and/or any other artwork that is substantially similar to the Squishmallows Works, on or in connection with Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, offering for sale, selling and/or otherwise dealing in Counterfeit Products;
 - 5) using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants and Defendants' commercial activities and Plaintiff;
 - 6) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or Defendants' Assets and the manufacture,

importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;

- 7) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order; and
- 8) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7) above and I(B)(1) through I(B)(2) and I(C)(1) below.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers and Financial Institutions are hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to Defendants' Financial Accounts until further ordered by this Court;
- 2) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to Defendants' Assets and Defendants' Financial Accounts; and
- 3) knowingly instructing any person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7) and I(B)(1) through I(B)(2) above and I(C)(1) below.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers are hereby restrained and enjoined from engaging in any of the following acts or omissions for fourteen (14) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) within five (5) days after receipt of service of this Order, providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts; and
- 2) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7), I(B)(1) through I(B)(2) and I(C)(1) above.

**II. Order to Show Cause Why A Preliminary Injunction
Should Not Issue And Order Of Notice**

- A. Defendants are hereby ORDERED to show cause before this Court in Courtroom 906 of the United States District Court for the Southern District of New York at 500 Pearl Street/40 Foley Square, New York, New York on Friday, November 12, 2021 at 9:00 A.m. or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to Fed. R. Civ. P. 65(a), should not issue.
- B. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with the Court and served on Plaintiff's counsel by delivering copies thereof to the office of Epstein Drangel LLP at 60 East 42nd Street, Suite 2520, New York, NY 10165, Attn: Jason M. Drangel on or before Tuesday, November 9, 2021. Plaintiff shall file any Reply papers on or before Thursday, November 11, 2021.
- C. IT IS FURTHER ORDERED that Defendants are hereby given notice that failure to appear at the show cause hearing scheduled in **Paragraph II(A)** above may result in the imposition of a

preliminary injunction against them pursuant to Fed. R. Civ. P. 65, which may take effect immediately upon the expiration of this Order, and may extend throughout the length of the litigation under the same terms and conditions set forth in this Order.

III. Asset Restraining Order

- A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 64 and 65 and N.Y. C.P.L.R. 6201 and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order, the Financial Institutions shall locate and attach Defendants' Financial Accounts and shall provide written confirmation of such attachment to Plaintiff's counsel.

IV. Order Authorizing Bifurcated and Alternative Service by Electronic Means

- A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 4(f)(3), as sufficient cause has been shown, that service may be made on, and shall be deemed effective as to Defendants if it is completed by the following means:
- 1) delivery of: (i) PDF copies of this Order together with the Summons and Complaint, or (ii) a link to a secure website (including NutStore, a large mail link created through Rmail.com and via website publication through a specific page dedicated to this Lawsuit accessible through ipcounselorslawsuit.com) where each Defendant will be able to download PDF copies of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiff's Application seeking this Order to Defendants' e-mail addresses to be determined after having been identified by Alibaba and/or AliExpress pursuant to Paragraph V(C) or may otherwise be determined; or
 - 2) delivery of a message to Defendants through the same means that Plaintiff's agents have previously communicated with Defendants, namely the system for communications established by the Third Party Service Providers on their respective

platforms, notifying Defendants that an action has been filed against them in this Court and providing a link to a secure website (such as NutStore or a large mail link created through Rmail.com) where each Defendant will be able to download PDF copies of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiff's Application seeking this Order.

- B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be deemed effective as to Defendants, Third Party Service Providers and Financial Institutions through the pendency of this action.
- C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be made within five (5) days of the Financial Institutions and Third Party Service Providers' compliance with **Paragraphs III(A) and V(C)** of this Order.
- D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that the Clerk of the Court shall issue a single original summons directed to all Defendants as listed in an attachment to the summons that will apply to all Defendants.
- E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that service may be made and shall be deemed effective as to the following if it is completed by the below means:
- 1) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PayPal Inc. will be able to download a PDF copy of this Order via electronic mail to PayPal Legal Specialist at EEOMALegalSpecialist@paypal.com;
 - 2) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where AliPay.com Co., Ltd., Ant Financial Services will be able to download a PDF copy of this Order via electronic mail Mr. Di Zhang, Member of the Legal & Compliance Department – IP, at di.zd@alipay.com;
 - 3) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Alibaba

will be able to download a PDF copy of this Order via electronic mail to Ms. Rachel Wang, Legal Counsel, Alibaba Group at rachel.wy@alibaba-inc.com and Ms. Yujuan He, Paralegal, Alibaba Group at chloe.he@alibaba-inc.com;

- 4) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Payoneer Inc. will be able to download a PDF copy of this Order via electronic mail to Payoneer Inc.'s Customer Service Management at customerservicemanager@payoneer.com and Edward Tulin, counsel for Payoneer Inc., at Edward.Tulin@skadden.com; and
- 5) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PingPong Global Solutions Inc. will be able to download a PDF copy of this Order via electronic mail to PingPong Global Solutions Inc.'s Legal Department at legal@pingpongx.com.

V. Order Authorizing Expedited Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days after receiving service of this Order, each Defendant shall serve upon Plaintiff's counsel a written report under oath providing:
 - a. their true name and physical address;
 - b. the name and location and URL of any and all websites that Defendants own and/or operate and the name, location, account numbers and URL for any and all User Accounts and Merchant Storefronts on any Third Party Service Provider platform that Defendants own and/or operate;
 - c. the complete sales records for any and all sales of Counterfeit Products, including but not limited to number of units sold, the price per unit, total gross revenues received (in U.S. dollars) and the dates thereof;
 - d. the account details for any and all of Defendants' Financial Accounts, including, but not limited to, the account numbers and current account balances; and

e. the steps taken by each Defendant, or other person served to comply with **Section I**, above.

2) Plaintiff may serve interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure as well as Local Civil Rule 33.3 of the Local Rules for the Southern and Eastern Districts of New York and Defendants who are served with this Order shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff's counsel.

3) Plaintiff may serve requests for the production of documents pursuant to Fed. R. Civ. P. 26 and 34, and Defendants who are served with this Order and the requests for the production of documents shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order the Financial Institutions shall identify any and all of Defendants' Financial Accounts, and provide Plaintiff's counsel with a summary report containing account details for any and all such accounts, which shall include, at a minimum, identifying information for Defendants, including contact information for Defendants (including, but not limited to, mailing addresses and e-mail addresses), account numbers and account balances for any and all of Defendants' Financial Accounts and confirmation of said compliance with this Order.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order, the Third Party Service Providers shall identify any and all of Defendants' User Accounts and Merchant Storefronts, and provide Plaintiff's counsel with a summary report containing account details for any and all User Accounts and Merchant Storefronts, which shall include, at a minimum, identifying information for Defendants and Defendants' User Accounts and Defendants' Merchant Storefronts, contact information for

Defendants (including, but not limited to, mailing addresses and e-mail addresses) and confirmation of said compliance with this Order.

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receiving actual notice of this Order, all Financial Institutions who are served with this Order shall provide Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to any and all of Defendants' Financial Accounts, including, but not limited to, documents and records relating to:
 - a. account numbers;
 - b. current account balances;
 - c. any and all identifying information for Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, names, addresses and contact information;
 - d. any and all account opening documents and records, including, but not limited to, account applications, signature cards, identification documents and if a business entity, any and all business documents provided for the opening of each and every of Defendants' Financial Accounts;
 - e. any and all deposits and withdrawals during the previous year from each and every one of Defendants' Financial Accounts and any and all supporting documentation, including, but not limited to, deposit slips, withdrawal slips, cancelled checks and account statements; and
 - f. any and all wire transfers into each and every one of Defendants' Financial Accounts during the previous year, including, but not limited to, documents sufficient to show the identity of the destination of the transferred funds, the identity of the beneficiary's bank and the beneficiary's account number.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receipt of service of this Order, the Third Party Service Providers shall provide to Plaintiff's counsel all documents and records in its possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:
 - a. any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the Third Party Service Providers that were not previously provided pursuant to Paragraph V(C);
 - b. the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided pursuant to Paragraph V(C);
 - c. the nature of Defendants' businesses and operations, methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts and Defendants' Financial Accounts with any and all Financial Institutions associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and
 - d. Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Counterfeit Products, or any other products bearing the Squishmallows Marks and/or Squishmallows Works and/or marks and/or artwork that are confusingly and/or

substantially similar to, identical to and constitute an infringement of the Squishmallows Marks and/or Squishmallows Works.

VI. Security Bond

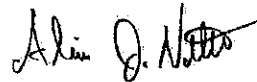
A. IT IS FURTHER ORDERED that Plaintiff shall place security in the amount of \$5,000.00 Dollars () with the Court which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

VII. Sealing Order

A. IT IS FURTHER ORDERED that Plaintiff's Complaint and exhibits attached thereto, and Plaintiff's *ex parte* Application and the Declarations of Jonathan Kelly and Danielle S. Futterman in support thereof and exhibits attached thereto and this Order shall remain sealed until the Financial Institutions and Third Party Service Providers comply with **Paragraphs I(B)-(C), III(A) and V(C)** of this Order.

SO ORDERED.

SIGNED this 25 day of October, 2021, at 1:19 p.m.



UNITED STATES DISTRICT JUDGE

SCHEDULE A

No.	Defendant	Initiating Listings	Merchant Storefront
1	Jialiaoli Store	https://www.aliexpress.com/item/1005003169069071	https://www.aliexpress.com/store/911956283
2	baby-shopping Store	https://www.aliexpress.com/item/1005003138087759	https://www.aliexpress.com/store/91318497
3	Bazinga Store	https://www.aliexpress.com/item/1005002536854884	https://www.aliexpress.com/store/911259389
4	BBOTTRUOYS Toy Store	https://www.aliexpress.com/item/1005003131281620	https://www.aliexpress.com/store/912283004
5	boboniu Store	https://www.aliexpress.com/item/100500317444226	https://www.aliexpress.com/store/912063667
6	chenwanju Store	https://www.aliexpress.com/item/1005003208742880	https://www.aliexpress.com/store/912365501
7	Children Growing Tree Store	https://www.aliexpress.com/item/1005003157778208	https://www.aliexpress.com/store/5621050
8	Chinese Plush Toy Store	https://www.aliexpress.com/item/10050025990348413	https://www.aliexpress.com/store/912186087
9	Dongguan Shenggen Hardware Plastic Co., Ltd.	https://www.alibaba.com/product-detail/Octopus-Kawaii-Soft-Squishmallow-Long-Ears-25cm_160020364770	https://shenggentoy.en.alibaba.com/
10	Dongguan Woodfield Baby Products Company Limited	https://www.alibaba.com/product-detail/Custom-Cat-Plush-Toys-Gift-Plush_1600271389209	https://woodfield.en.alibaba.com/
11	Dongguan Xingke Gift Co., Ltd.	https://www.aliexpress.com/item/1005003121371378	https://faiilworthings.en.alibaba.com/
12	Droshipping-Toys Store	https://www.aliexpress.com/item/1005003050692977	https://www.aliexpress.com/store/912169554
13	Fairylands Toy Store	https://www.aliexpress.com/item/1005003138440305	https://www.aliexpress.com/store/911462039
14	FCOT Store	https://www.aliexpress.com/item/1005002990331576	https://www.aliexpress.com/store/912072533
15	Fourty Store	https://www.aliexpress.com/item/1005002976098299	https://www.aliexpress.com/store/910533007
16	Frands 001 Store	https://www.aliexpress.com/item/1005002885806486	https://www.aliexpress.com/store/5079154
17	Fun Game Fun Store	https://www.alibaba.com/product-detail/Custom-squishmallow-kawaii-cat-plush-toy_1600320238828	https://wplayplushtoy.en.alibaba.com/
18	Guangdong Sansan Supply Chain Co., Ltd.	https://www.alibaba.com/product-detail/Squishmallow-dinosaur-pillow-plush-toys-25_1600279886018	https://xiaodarentoy.en.alibaba.com/
19	Guangzhou Little Talent Toys Co., Ltd.	https://www.alibaba.com/product-detail/20Cm-Animal-Squishmallowing-Plush-Toys-Custom_1600279886018	https://ymai.en.alibaba.com/
20	Guangzhou Yimai Trading Co., Ltd.	https://www.alibaba.com/product-detail/Hot-Sale-Plush-Stuffed-Toys-Cute_1600238416324	https://hagreat.en.alibaba.com/
21	Hangzhou Agraat Import & Export Co., Ltd.	https://www.alibaba.com/product-detail/2021-Agrate-Wholesale-Hot-Seller-Stuffed_1600277323515	https://hkg202102.en.alibaba.com/
22	Hebei Kuni Animation Industry Co., Ltd.	https://www.alibaba.com/product-detail/Hot-Sale-Plush-Stuffed-Toys-Cute_1600238416324	https://www.aliexpress.com/store/912346971
23	Henan Yinghuozhuang Culture Media Co., Ltd.	https://www.alibaba.com/product-detail/Different-Colors-Pink-and-Grey-Spandex_16002623995530	https://monsterjellietar.en.alibaba.com/
24	Mikecrack Store	https://www.aliexpress.com/item/1005003181568721	https://www.aliexpress.com/store/5499236
25	Monster Jellie Culture Co., Ltd.	https://www.alibaba.com/product-detail/Cawaii-Squishmallow-soft-plush-toys-stuffing_1600237401413	https://njsunior.en.alibaba.com/
26	Moving Dreaming Store	https://www.aliexpress.com/item/1005003157228929	https://www.aliexpress.com/store/5499236
27	Nanjing Ruffong Arts And Toys Manufacturing Co., Ltd.	https://www.alibaba.com/product-detail/Amazon-soft-Toy-Arinal-and-fruit_1600286809759	https://www.aliexpress.com/store/911595080
28	QWIA Store	https://www.aliexpress.com/item/1005003075023617	https://happyplush.en.alibaba.com/
29	Shanghai Qiaoliu Trading Co., Ltd.	https://www.alibaba.com/product-detail/Cute-10CM-Plushies-Baby-Yoda-Squishmallow_1600248244131	https://tongfietrading.en.alibaba.com/
30	Shenzhen Tongfei International Trade Co., Ltd.	https://www.alibaba.com/product-detail/MAI-303-25cm-26-Styles-Cartoon-Cat_1600292952058	https://hecion.en.alibaba.com/
31	Shenzhen Hechun Technology Co., Ltd.	https://www.alibaba.com/product-detail/Hecion-PP-Cotton-Stuffed-Toy-Plush_160026663288	https://qhtoy.en.alibaba.com/
32	Shenzhen Qinghong Toys Co., Ltd.	https://www.alibaba.com/product-detail/Super-Soft-Stuffed-Plush-Toy-Squishmallow_1600292051956	https://www.aliexpress.com/store/5477120
33	Shop5477120 Store	https://www.aliexpress.com/item/1005003113035906	https://www.aliexpress.com/store/910893006
34	Shop510893006 Store	https://www.aliexpress.com/item/1005003212064070	https://www.aliexpress.com/store/5439099
35	SI TING Store	https://www.aliexpress.com/item/1005003209434974	https://coolmagi.en.alibaba.com/
36	ST Gteak Technology Co., Limited	https://www.alibaba.com/product-detail/Cute-Squishmallow-13cm-soft-mini-babe_1600225369732	https://www.aliexpress.com/store/912354766
37	TC XRC Store Store	https://www.aliexpress.com/item/1005003167898339	https://www.aliexpress.com/store/912249333
38	TIKTOK IP Store	https://www.aliexpress.com/item/1005003166903630	https://www.aliexpress.com/store/5631127
39	VL Store	https://www.aliexpress.com/item/1005003109361850	https://purilge.en.alibaba.com/
40	Xinxiang Purilge Import And Export Trading Co., Ltd.	https://www.alibaba.com/product-detail/20cm-Squishmallow-sells-Yoda-unicom-cartoon_1600277682328	https://www.aliexpress.com/store/911751520
41	YaMong Store	https://www.aliexpress.com/item/1005003171238000	https://jlltoys.en.alibaba.com/
42	Yangzhou Aixin International Trade Import And Export Co., Ltd.	https://www.alibaba.com/product-detail/25cm-30cm-soft-stuffed-squishmallow-Custom_1600243722439	https://enaorunju.en.alibaba.com/
43	Yangzhou Aorunju Gifts Co., Ltd.	https://www.alibaba.com/product-detail/High-Hope-2021-cute-new-soft_160029362263	https://baabyjoy.en.alibaba.com/
44	Yangzhou Babyjoy Arts & Crafts Co., Ltd.	https://www.alibaba.com/product-detail/Hot-selling-super-soft-textured-dinosaur_160017176131	https://cuteshoot.en.alibaba.com/
45	Yangzhou Cuteshoot Plushies Co., Ltd.	https://www.alibaba.com/product-detail/Hot-sale-peluche-bubble-tea-squishmallow_1600276791261	https://duala.en.alibaba.com/
46	Yangzhou Duxia Crafts Ltd.	https://www.alibaba.com/product-detail/Animal-Sweet-Leopard-Pillow-Plush-Toy_1600267394541	https://ykrkingstone.en.alibaba.com/
47	Yangzhou Kingstone Toys Co., Ltd.	https://www.alibaba.com/product-detail/Squishmallow-super-soft-elastic-fabric-stuffed_62335131051	https://maristoy.en.alibaba.com/
48	Yangzhou Marisa Toy Gifts Co., Ltd.	https://www.alibaba.com/product-detail/Hot-Sale-Cute-Kawaii-Stuffed-Plush_1600221212846	https://fmaristoy.en.alibaba.com/
49	Yangzhou SCS Homertextile Co., Ltd.	https://www.alibaba.com/product-detail/Squishmallow-Decorative-Pillow-Covers-Sleeping-Luxury_1600270012136	https://scollffhome.en.alibaba.com/
50	Yangzhou Weihe Handicraft Co., Ltd.	https://www.alibaba.com/product-detail/2021Lovely-pets-squishmallows-Plush-toys-for_1600236259675	https://welthtoy.en.alibaba.com/
51	Yangzhou Wosen Toys Co., Ltd.	https://www.alibaba.com/product-detail/20cm-plush-squishmallow-cow-cute-squishmallow_1600315544694	https://yvwstoy.en.alibaba.com/
52	Yiwu Chuanyu Import And Export Firm	https://www.alibaba.com/product-detail/30cm-Squishmallow-sells-Yoda-unicom-cartoon_1600294976693	https://chanku.en.alibaba.com/
53	Yiwu Duoteng E-Commerce Co., Ltd.	https://www.alibaba.com/product-detail/13cm-New-Design-Soft-Cofortable-Child_160024871522	https://nbj1514.en.alibaba.com/
54	Yiwu Fuguan Household Supplies Co., Ltd.	https://www.alibaba.com/product-detail/Amazon-hot-sale-squishmallow-burger-fries_1600315367076	https://yvwufuguan.en.alibaba.com/
55	Yiwu Heping Bag Factory	https://www.alibaba.com/product-detail/2021-Cute-New-Soft-Pillow-Plush_1600243721256	https://zouhaiping.en.alibaba.com/
56	Yiwu Quanfa Import & Export Company Limited	https://www.alibaba.com/product-detail/Cartoon-Round-30cm-Baby-Yoda-Plush_1600223150688	https://yvwquanfa.en.alibaba.com/
57	Yiwu Victory Import & Export Co., Ltd.	https://www.alibaba.com/product-detail/Plush-Home-Decoration-Crafts-Figurines-Miniatures_1600296002529	https://yvwvictory.en.alibaba.com/
58	Yiwu Xiniu Import And Export Co., Ltd.	https://www.alibaba.com/product-detail/Cat-Dinosaur-Animal-Stuffed-Toys_16002920540508	https://yvwxinu1996.en.alibaba.com/
59	Yiwu Yinwei Household Products Co., Ltd.	https://www.alibaba.com/product-detail/Hot-selling-products-squishmallow-down-cotton_1600230636933	https://sztoy.en.alibaba.com/

60	Yiwu Zhengqi Qin Trading Firm	https://www.alibaba.com/product-detail/Hot-sale-Soft-Textured-Dinosaur-Unicorn_1600291016594	https://zhenghqi.qin.alibaba.com/
61	Zhanjiang Dynamic Point Network Technology Co., Ltd.	https://www.alibaba.com/product-detail/Custom-Cute-Soft-Stuffed-Squishmallow-Plush_1600313387322	https://cnddboys.en.alibaba.com/

